

Exhibit 9

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May 24, 2018

VIA ECF

The Honorable Justice Roberto A. Rivera-Soto (ret.)
Special Discovery Master
Ballard Spahr LLP
210 Lake Drive East, Suite 200
Cherry Hill, New Jersey 08002-1163

RE: *Kimberlee Williams, et al. v. BASF Catalysts LLC, et al.*
Civil Action No. 11-cv-01754 (JLL) (JAD)

Dear Justice Rivera-Soto:

Plaintiffs served their Third Set of Interrogatories on BASF generally directed to developing evidence bearing upon Plaintiffs' disgorgement remedy claim as well bearing upon defendants' motive and intent. *See* BASF's Ex. E (ECF # 529-6) (Ps Third Set of Interrogatories). BASF objected to the interrogatories. *See* P's Ex. A (ECF # 516-2) (BASF's Objections). The parties met and conferred, during which Plaintiffs did not withdraw the full set of interrogatories but offered to narrow its request to the information sought in Interrogatories 9, 10 and 11 generally dealing with defense costs that BASF paid to defend EMTAL talc claims from 1979 through 2017, (Interrogatory No. 9); the number of Emtal claims that BASF resolved or

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terminated at or during certain stages of the claim or litigation for the years 1979-2017, (Interrogatory No. 10); the total amount of claim payments BASF paid relating to Emtal claims for the years 1979-2017, (Interrogatory No. 11); and the number of the claims resolved by the payment, (*id.*). Each of these are relevant and important metrics in this matter. BASF, however, continues to object to this more focused inquiry. *See* P's Ex. A (ECF # 516-2) (BASF's Objections). Thereafter, Plaintiffs filed a Motion to Compel (ECF # 516), and to which BASF has filed its response (ECF # 529). Plaintiffs now submit this reply to BASF's Opposition to Plaintiffs' Motion to Compel Further Responses to Interrogatories. (ECF # 529). Interrogatories 9, 10 and 11 in Plaintiffs' Third Set of Interrogatories directed to BASF are (1) appropriate in number and scope, (2) relevant to the parties' claims and defenses, (3) not duplicative as the information has not already been produced and (4) are not unduly burdensome. Indeed, these three interrogatories are the most appropriate means to obtain these metrics, which surely must have been tracked by BASF for several business reasons. BASF should be compelled to respond.

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ARGUMENT

A. Plaintiffs' First Set of Interrogatories Does Not Count Towards the 25 Interrogatory Limit and Plaintiffs Have Not Exceeded their 25 Interrogatory Limit.

BASF mischaracterizes the number of interrogatories served by Plaintiffs as well as which interrogatories count towards the additional 25 interrogatory limit imposed by Judge Dickson's October 16, 2017 Order. Throughout the course of this case, Plaintiffs served a total of three sets of interrogatories on BASF. *See* BASF's Ex. A (ECF # 529-2) (Ps First Set of Interrogatories), BASF's Ex. B (ECF # 529-3) (Ps Second Set of Interrogatories, BASF's Ex. E (ECF # 529-6) (Ps Third Set of Interrogatories). All in all, Plaintiffs served 34 interrogatories on BASF. However, Plaintiffs First Set of Interrogatories were served on October 23, 2015. *See* BASF's Ex. A (ECF # 529-2). *After* Plaintiffs First Set of Interrogatories were served, on October 17, 2016, Judge Dickson entered a scheduling Order providing for a "[m]aximum of twenty-five (25) **additional** interrogatories by **each** party to **each** other party" in this action. *See* (ECF 221); *see also* BASF's Ex. L (ECF 529-13) (10/14/16 Hr'g Tr. at 15:6-15) (emphasis added). The plain language of the Order as well as the hearing transcript shows that **each party** (or each of the six Representative Plaintiffs) could serve 25 interrogatories **in addition to** interrogatories already served, i.e., the First Set of Interrogatories propounded by Plaintiffs. Thus, the

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number of interrogatories in Plaintiffs' First Set of Interrogatories, whether it be 17 or 26¹, does not count towards the 25 additional interrogatory limit provided for in Judge Dickson's Order and BASF's implications that it does should be ignored.

Accordingly, the only interrogatories that count towards the 25-interrogatory limit are Plaintiffs' Second Set of Interrogatories containing 4 interrogatories and

¹ BASF claims that Plaintiffs' First Set of Interrogatories were "closer to 26 separate questions" as opposed to 17. *See* BASF Opp. (ECF 529) at 14. While Plaintiffs do not concede that any of the First Set of Interrogatories contained "discrete subparts", the fact of the matter is that BASF substantively answered some of those interrogatories "without waiving" its objections and, therefore, any objection to those interrogatories based on the number was and is waived. *See* BASF's Ex. C (ECF 529-4); *Knit With v. Knitting Fever, Inc.*, 2010 U.S. Dist. LEXIS 147695, at 5-6, n. 2 (E.D. Pa. Jan. 22, 2010) (finding defendant waived objection as to exceeding the interrogatory limit where it answered some interrogatories "without waiving" its objection).

By the same token, BASF should be deemed to have waived its objection to Plaintiffs' Second and Third Sets of Interrogatories on grounds that Plaintiffs exceeded the 25-interrogatory limit because it provided substantive answers to Plaintiffs' Second Set of Interrogatories "without waiving" its objection on numerosity grounds. Based on BASF's answers to the Second Set of Interrogatories, its claim that "plaintiffs' Second Set of Interrogatories, although styled as 4 interrogatories, is in fact closer to 52 separate questions" rings hollow. *See* BASF Opp. (ECF 529) at 14. Finally, and as a result of answering Plaintiffs' Second Set of Interrogatories, BASF has waived any objection to answering Interrogatories 9, 10 and 11 on the grounds the interrogatories served by Plaintiffs exceeded the 25-interrogatory limit here and BASF should be compelled to respond. *See Knit With*, 2010 U.S. Dist. LEXIS 147695, at 5-6, n. 2 (requiring defendant to answer interrogatories in excess of 25 where the defendant answered some interrogatories without waiving the objection while declining to provide any answer to others based on the same objection because a party cannot selectively answer interrogatories).

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Plaintiffs' Third Set of Interrogatories containing 11 interrogatories. Plaintiffs are only moving to compel a response to 3 of the 11 interrogatories (numbers 9, 10 and 11) propounded in Plaintiffs' Third Set of Interrogatories for a total of 14 interrogatories to be answered by BASF since the time of Judge Dickson's October 17, 2016 scheduling order. Plaintiffs are will within their limit of 25 interrogatories each².

Contrary to BASF's assertion, the format that Plaintiffs requested BASF's answers to interrogatory nos. 9, 10 and 11 in does not turn the interrogatories into hundreds of "discrete subparts" for the purposes of Rule 33(a)(1)'s and/or Judge Dickson's scheduling order's 25 interrogatory limit. Whether a subpart of an interrogatory should be counted as a "discrete subpart" and therefore, a separate interrogatory depends on whether the subpart is logically or factually subsumed within and necessarily related to the primary question. *Engage Healthcare Communs., LLC v. Intellisphere, LLC*, 2017 U.S. Dist. LEXIS 83068, at *10 (D.N.J. Feb. 10, 2017). This Court takes a pragmatic approach that "requires application of the related question framework with an eye to the competing purposes of Rule 33(a)(1): allowing reasonable latitude in formulating an inquiry to elicit as complete

² As set forth in Plaintiffs' Motion to Compel, Plaintiffs would be entitled to serve 125 interrogatories total.

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an answer as possible, while at the same time not allowing the multiplication of interrogatories to the point that it defeats the purposes underlying the 25-interrogatory limit.” *Id.* at *11 (internal quotations omitted). Whether an interrogatory is sufficiently discrete to be considered a separate interrogatory depends on the particular circumstances of the case. *Id.*

Plaintiffs’ three interrogatories collectively seek information relating to defense costs BASF paid to defend EMTAL talc claims from 1979 through 2017, the number of Emtal claims resolved or terminated during this time period and the total amount of claim payments BASF paid in respect to the same (Interrogatory Nos. 9, 10 and 11). A brief review of these interrogatories shows that any subparts to these questions are logically and factually subsumed in the main interrogatory, and therefore, are not discrete subparts, particularly in a complex class action case involving allegations of BASF’s decades long fraud on litigants and courts nationwide: the table format is simply a way to obtain this requested information in a structured and organized fashion.

Further, requesting that BASF break down by year its answer to the question posed, for a number of years does not automatically turn the interrogatory into hundreds of discrete subparts as BASF suggests. *See Medigus Ltd. v. Endochoice, Inc.*, Civil Action No. 15-505, 2016 U.S. Dist. LEXIS 156752, at *7, n.5 (D. De.

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July 19, 2016) (finding interrogatories were not discrete subparts where the same question was being asked for each year for eight years); *High Point SARL v. Spring Nextel Corp.*, Civil Action No. 09-2269, 2011 U.S. Dist. LEXIS 103118, at *18 (D. Kan. Sept. 12, 2011) (finding an interrogatory that requested all revenue on a monthly basis from 2002 forward, with such revenue broken down by category of revenue, was one interrogatory). Again, this is particularly true in light of the facts of this case and the decades long fraud Plaintiffs' allege that BASF engaged in.

B. The Requests Seek Information Relevant to the Parties' Claims or Defenses and are Proportional to the Needs of the Case.

BASF has not already produced responsive information that could be used by Plaintiffs to generate the information Plaintiffs seek here. BASF specifically refers to the Cahill database, which was an electronic database established to track complaints that were being brought against Engelhard and various types of litigation, including talc litigation. *See* Excerpt of Deposition of Michael Sullivan attached hereto as Exhibit 1 at 171:18-173:18. However, as Plaintiffs have previously informed BASF and Cahill, the Cahill database is inoperable as it does not link and interrelate the various record information. *See* Correspondence re: Cahill Database

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attached hereto as Exhibit 2.³ Further, despite Plaintiffs' requests, neither BASF nor Cahill have produced the other documents, the talc case indices, that may provide some of this information. The talc indices are also the subject of an outstanding motion to compel. *See* ECF # 525.

The information sought in these three interrogatories is relevant to Plaintiffs' claims (including damages) and BASF's defenses. In determining whether evidence is relevant the Court considers whether the evidence has "a tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action." *See Williams v. BASF Catalysts, LLC*, Civil Action No. 11-1754, 2017 U.S. Dist. LEXIS 122053, at *10 (D.N.J. Aug. 3, 2017) (citing Fed. R. Evid. 401) (internal quotations omitted). Federal Rule of Civil Procedure 26 "is to be construed liberally in favor of disclosure, as relevance is a

³ Cahill's Michael Sullivan testified that Cahill's Access relational database worked prior to it being downloaded and removed by Cahill's former counsel in connection with this case. *See* Ex. 1 at 171:2-173:18; 181:18-182:14. He further testified it contained "objects", that is forms, from which related information could be conveniently assembled from the many various tables of information and viewed. *See* Ex. 1 at 171:2-173:18. The database provided however did not contain the forms and relational "links" between numerous tables which allow queries and the generation of reports. Requests for explanations why this is so continue to go unanswered by BASF and Cahill. *See* Ex. 2. In any event, the Cahill database is not one intended or designed to collect the information that is the subject of these interrogatories, Ex. 1 at 171:2-173:18.

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broader inquiry at the discovery stage than at trial.” *See Williams*, 2017 U.S. Dist. LEXIS 122053, at *10 (citations omitted); *Young v. Lukens Steel Co.*, Civil Action No. 92-6490, 1994 U.S. Dist. LEXIS 1462, *3 (E.D. Pa. 1994) (recognizing that in light of the Rule 26’s purpose of allowing the parties to obtain the fullest possible knowledge of the issues and facts before trial, wide latitude should be afforded to the party seeking discovery).

In the Brief in Support of their Motion for Class Certification, Plaintiffs explain the disgorgement remedy they will seek — i.e., disgorgement of, *inter alia*, monies saved by Engelhard in defense costs and liability payments — and why disgorgement is a proper remedy in this case. (ECF # 418-1). The information sought by Interrogatories 9, 10 and 11 specifically relate to and go towards proving the amount of monies BASF should disgorge if Plaintiffs’ are successful. The information is also relevant as to BASF’s intent and motive in employing the fraudulent asbestos defense scheme. Interrogatory Nos. 10 and 11 are also pertinent to a number of issues such as numerosity and ascertainability, which are fundamental to the issue of class certification. *See, e.g., Younes*, 312 F.R.D. at 705 (“Although 7-Eleven believes Project P is immaterial, there is no legitimate question that plaintiffs are entitled to pursue discovery to support their theory of the case, especially in light of the allegations in their complaint.”).

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C. Whether BASF has to Engage in a Manual Review of Onsite and/or Offsite Documents Does Not Make the Request Unduly Burdensome and BASF has failed to Meet its Burden to Show Otherwise.

Similarly, BASF's arguments that the requests are unduly burdensome also fail. As an initial matter, and contrary to BASF's assertions, Plaintiffs do have record evidence that the evidence it seeks exists or existed. Arthur Dornbusch, former general counsel of Engelhard, testified at his deposition that Engelhard received separate monthly bills for each legal matter and a general memorandum of the work that was done for each matter that he would review and approve for payment. *See* Excerpted Deposition of Arthur Dornbusch attached hereto as Ex. 3 at 107:19-108:11; *see also* Excerpted Deposition of Michael Hasset attached hereto as Ex. 4 at 52:8-18 (testifying: "[Engelhard] in general maintained records of legal expenses and all expenses. It's, you know, a big company with good financial statements...."). The bill would then go to accounts payable. Ex. 2 at 108:12-17. The financial department at Engelhard would also give Mr. Dornbusch sheets with analysis of legal expenditures broken down by matter. *Id.* at 109:13-110:7. Mr. Dornbusch further testified that if he wanted to know how much Cahill Gordon billed Engelhard from 2003 to 2005 he could obtain that information. *See* Ex. 2 at 111:7-13. Mr. Dornbusch's testimony confirms the undeniable fact that corporations the size of, and with the sophistication and resources of BASF and its predecessors, including

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Engelhard, have numerous accounting, financial, and budgetary procedures and controls to know what they are spending on legal defense costs, and especially the fees charged by outside law firms. Nothing in BASF's Response or accompanying declaration support a finding that the information sought is truly burdensome or no longer exists — BASF just does not want to look for it.

To show an undue burden, BASF had to demonstrate with “specificity and factual detail” the nature and extent of the burden Plaintiffs’ requests would pose. *Parks, LLC v. Tyson Foods, Inc.*, Civil Action No. 15-00946, 2015 U.S. Dist. LEXIS 112861 at * 15-16, n. 3 (E.D. Pa. Aug. 25, 2005). In *Clark v. Mellon Bank, N.A.*, Civil Action No. 92-4823, 1993 U.S. Dist. LEXIS 2924, at *6-7 (E.D. Pa. 1993), the court required the defendants’ to answer the plaintiff’s request to compile highly personal information concerning hundreds of employees from departments and divisions other than plaintiff’s department/division because the defendant did not produce evidence to suggest that defendants’ agents could not go to a single or even various locations to quickly and efficiently search the files to uncover the necessary information to respond to plaintiff’s requests. *Id.* at *6-7.

BASF further bases its undue burden claim on the fact that the information is not readily available to it as it cannot generate the information requested in the exact *form* Plaintiffs seek in an automated fashion. BASF supports this argument with the

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declaration of a manager “generally familiar” with BASF’s current and historical accounting. *See* Ex. M to BASF’s Opp. (ECF 529-14) at ¶¶ 1-2. While the declaration provides that the information cannot be automated in the “*form*” Plaintiffs seek, it does not state that the information needed to complete the interrogatory cannot be automated at all or at the very least obtained through manual review. *Id.* at ¶¶ 4-7. As in *Clark, supra*, the fact that BASF will have to engage in a manual review of information onsite and/or offsite does not make the request unduly burdensome. There is nothing in the declaration stating that the information cannot be automated, just that it cannot be automated into the exact grid-type form Plaintiffs’ requested the answers be provided in. Further, the declaration is completely devoid of any indication as to how much time the review would take or how expensive the review would be and therefore, BASF cannot meet its burden of showing the request is unduly burdensome. *Parks, LLC*, 2015 U.S. Dist. LEXIS 1128861 at * 15-16, n. 3.

Finally, the fact that Plaintiffs’ requests span a number of years, in this class action case alleging a decades long fraud, is not grounds for finding a request unduly burdensome. *Parks, LLC*, 2015 U.S. Dist. LEXIS 1128861 at * 15-16, n. 3; *Roseberg v. Johns-Manville Corp.*, 85 F.R.D. 292, 296 (E.D.Pa. 1980) (in an asbestos case, a request was not unduly burdensome, unreasonable or irrelevant by virtue of spanning

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fifty years). Moreover, current defense expenditures on Emtal talc litigation and BASF's liability in an environment where the suppressed facts are known to at least some plaintiffs are germane to the valuation issues in this matter.

BASF cannot evade responding to Plaintiffs' relevant discovery requests simply because it does not want to make an effort to respond.

CONCLUSION

In sum, BASF should be compelled to respond to Interrogatory Nos. 9, 10 and 11 of Plaintiffs' Third Set of Interrogatories directed to BASF as the service of those interrogatories complied with Fed. R. Civ. P. 33(a)(1), and BASF did not carry its burden to object to them.

Respectfully Submitted,

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KIMBERLEE WILLIAMS, et al.

Plaintiffs,

vs.

BASF CATALYSTS LLC, et al.

Defendants.

No. 2:11-cv-01754 (JLL) (JAD)

CIVIL ACTION

**CERTIFICATION OF
COUNSEL**

CHRISTOPHER M. PLACITELLA, of full age, hereby certifies as follows:

1. I am an attorney at law in the State of New Jersey and a shareholder with the law firm of Cohen, Placitella and Roth, P.C.
2. I am familiar with the facts and circumstances of the within action.

3. Attached as Exhibit 1 is a true and correct copy of excerpts from the March 23, 2018 deposition of Michael Sullivan.

4. Attached as Exhibit 2 is a true and correct copy of the compilation of correspondence between counsel in *Williams v. BASF Catalysts, LLC.*, Civil Action No. 11-1754.

5. Attached as Exhibit 3 is a true and correct copy of excerpts from the May 14, 2018 deposition of Arthur Dornbusch.

6. Attached as Exhibit 4 is a true and correct copy of excerpts from the April 24, 2018 deposition of Michael Hassett.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

COHEN, PLACITELLA & ROTH, P.C.
/s/ Christopher M. Placitella
CHRISTOPHER M. PLACITELLA

Dated: May 15, 2018

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

- - - - - x

KIMBERLEE WILLIAMS, et al.,

Plaintiffs,

Civil Action No.

-against-

11-1754(JLL)(JAD)

BASF CATALYSTS, LLC, et al.,

Defendants.

- - - - - x

Videotaped oral deposition of
MICHAEL SULLIVAN, taken pursuant to
notice, was held at the law offices of
PEPPER HAMILTON LLP, 620 Eighth Avenue,
New York, New York, commencing March 23,
2018, 10:05 a.m., on the above date,
before Leslie Fagin, a Court Reporter
and Notary Public in the State of New
York.

- - -

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<p>1 2 APPEARANCES: 3 4 COHEN PLACITELLA & ROTH, P.C. Attorneys for Plaintiffs 124 Maple Avenue 5 Red Bank, New Jersey 07701 6 BY: CHRISTOPHER M. PLACITELLA, ESQUIRE MICHAEL COREN, ESQUIRE 7 8 PEPPER HAMILTON LLP Attorneys for Cahill Gordon and the Witness 9 Michael Sullivan 3000 Two Logan Square 10 Eighteenth and Arch Streets Philadelphia, Pennsylvania 19103 11 BY: BARRY H. BOISE, ESQUIRE KYLE DOLINSKY, ESQUIRE 12 (Appearing via telephone.) 13 14 KIRKLAND & ELLIS, LLP Attorneys for Defendant BASF Catalysts, LLC 15 655 15th Street, N.W. Washington, D.C. 20005 16 BY: PETER FARELL, ESQUIRE 17 18 MARINO, TORTORELLA & BOYLE, P.C. Attorneys for Defendant Arthur Dornbusch 19 437 Southern Boulevard Chatham, New Jersey 07928 20 BY: JOHN A. BOYLE, ESQUIRE (Appearing via telephone.) 21 22 23 24 25</p>	<p>1 2 (Exhibit P-1-A, notice of 3 deposition, marked for identification.) 4 THE VIDEOGRAPHER: We are now on 5 the record. 6 This begins DVD No. 1 in the 7 deposition of Michael Sullivan in the 8 matter of Kimberlee Williams, et al. 9 versus BASF Catalysts, LLC, et al. in 10 the United States District Court, for 11 the District of New Jersey, civil action 12 11-1754. 13 Today is March 23, 2018 and the 14 time is 10:05 a.m. 15 This deposition is being taken 620 16 Eighth Avenue, New York New York at the 17 request of Cohen, Placitella & Roth. 18 The videographer is Ray Moore of 19 Magna Legal Services and the court 20 reporter is Leslie Fagin of Magna Legal 21 Services. 22 Will the court reporter please 23 swear in the witness. 24 MICHAEL SULLIVAN, called as 25 a witness, having been duly sworn by a</p>
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<p>1 2 APPEARANCES: 3 4 HEROLD LAW, P.A. Attorneys for Defendant Thomas Halkett 5 25 Independence Boulevard Warren, New Jersey 07059 6 BY: ERIC TUNIS, ESQUIRE (Appearing via telephone.) 7 8 9 ALSO PRESENT: 10 RAY MOORE, Videographer Magna Legal Services 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 M. Sullivan 2 Notary Public, was examined and testified 3 as follows: 4 EXAMINATION BY 5 MR. PLACITELLA: 6 Q. Good morning, Mr. Sullivan. How 7 are you? 8 A. I'm doing well. Thank you. 9 Q. I'm Chris Placitella. I'm here for 10 purposes of taking your deposition. 11 Have you ever had your deposition 12 taken before? 13 A. No. 14 Q. Have you ever attended any 15 depositions? 16 A. No. 17 Q. So I'm going to ask you a series of 18 questions, which I ask that you respond to -- 19 MR. BOISE: Those on the phone, can 20 you please mute the phones, there is 21 some background noise. 22 MR. PLACITELLA: Heavy breathing, 23 to be exact. 24 MR. TUNIS: Before you start your 25 questioning, you are breaking up and I'm</p>

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<p>1 M. Sullivan</p> <p>2 Q. Do you have knowledge that there</p> <p>3 was a database used at Cahill Gordon</p> <p>4 concerning the EMTAL Talc litigation?</p> <p>5 MR. FARELL: Objection to form.</p> <p>6 A. Yes.</p> <p>7 Q. Did you have any role in the</p> <p>8 construction or use of that database?</p> <p>9 MR. FARELL: Objection to form.</p> <p>10 MR. BOISE: Compound.</p> <p>11 A. Yes.</p> <p>12 Q. What was your role?</p> <p>13 A. At any particular point in time?</p> <p>14 Q. Yes.</p> <p>15 A. Because the databases kind of</p> <p>16 evolved.</p> <p>17 Q. Tell me what your understanding is</p> <p>18 of the evolution of the database, maybe that</p> <p>19 will help.</p> <p>20 A. It started out in one form with one</p> <p>21 particular software and it expanded and</p> <p>22 everything from that database at that time</p> <p>23 was then converted and imported into the next</p> <p>24 platform, which was Advanced Revelation and</p> <p>25 then that expanded out beyond, when Advanced</p>	<p>1 M. Sullivan</p> <p>2 MR. PLACITELLA: The Access</p> <p>3 database.</p> <p>4 A. By that time, it was broader than</p> <p>5 that.</p> <p>6 Q. What did it entail, did it involve</p> <p>7 all of the litigation in your office or</p> <p>8 specific litigations?</p> <p>9 MR. FARELL: Objection to form.</p> <p>10 A. Specific.</p> <p>11 Q. Which ones?</p> <p>12 A. Involving Engelhard.</p> <p>13 Q. So this was an Engelhard database?</p> <p>14 A. Yes, that was the only client that</p> <p>15 we had in there, yes.</p> <p>16 Q. Who was in charge of that database?</p> <p>17 MR. FARELL: Objection to form.</p> <p>18 A. Me.</p> <p>19 Q. You were?</p> <p>20 A. Yes.</p> <p>21 Q. Were you involved in the</p> <p>22 construction of that database?</p> <p>23 A. To a certain degree, but like I</p> <p>24 said, it was a conversion of one platform to</p> <p>25 another, so that structure, so to speak, was</p>
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<p>1 M. Sullivan</p> <p>2 Revelation was no longer a company, it was</p> <p>3 converted to Microsoft Access database.</p> <p>4 Q. What was the original platform?</p> <p>5 MR. FARELL: Objection to form.</p> <p>6 A. From my knowledge, because it was</p> <p>7 in existence before I started is Nutshell.</p> <p>8 Q. And were you there when it</p> <p>9 converted over to the second platform?</p> <p>10 A. Yes.</p> <p>11 Q. Was all the information in the</p> <p>12 first platform transferred to the second</p> <p>13 platform?</p> <p>14 A. Yes.</p> <p>15 Q. And when it was converted over to</p> <p>16 the Access database, was all the information</p> <p>17 that was contained in the second platform</p> <p>18 imported and made accessible in the Access</p> <p>19 database?</p> <p>20 A. Yes.</p> <p>21 Q. Was this a database created</p> <p>22 specifically for the EMTAL Talc litigation or</p> <p>23 was it broader than that?</p> <p>24 MR. FARELL: Objection to form.</p> <p>25 MR. BOISE: Which database?</p>	<p>1 M. Sullivan</p> <p>2 carried over and conformed to fit and work</p> <p>3 with Access.</p> <p>4 Q. And this was now a database, the</p> <p>5 Access database that involved all work that</p> <p>6 was being done for Engelhard, including the</p> <p>7 EMTAL Talc litigation, correct?</p> <p>8 MR. BOISE: Objection to form,</p> <p>9 foundation.</p> <p>10 A. All, I mean all -- I don't know,</p> <p>11 but cases that I know that I was working on.</p> <p>12 Q. When you say, cases, which cases?</p> <p>13 MR. FARELL: Objection to form.</p> <p>14 A. Just the talc cases certainly and</p> <p>15 then there were other cases involving another</p> <p>16 subsidiary of Engelhard which we considered</p> <p>17 to be premises cases and then there were</p> <p>18 other types of cases, silica cases, cases</p> <p>19 involving other products.</p> <p>20 Q. Did any of the insurance-related</p> <p>21 litigation get put in that database?</p> <p>22 MR. BOISE: Objection to form,</p> <p>23 foundation.</p> <p>24 MR. FARELL: Objection to form.</p> <p>25 A. Insurance-related litigation.</p>

<p style="text-align: right;">Page 170</p> <p>1 M. Sullivan</p> <p>2 Q. Was there insurance-related</p> <p>3 litigation in that database?</p> <p>4 MR. FARELL: Objection to form,</p> <p>5 foundation.</p> <p>6 A. No.</p> <p>7 Q. Was it a relational database?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know what I mean by</p> <p>10 relational -- could you define what you</p> <p>11 understand relational to be?</p> <p>12 A. A relational database is a database</p> <p>13 where there are various instances of a one</p> <p>14 to many relationship.</p> <p>15 Q. Were there tables in that database?</p> <p>16 A. Yes.</p> <p>17 Q. I'm talking about the Access</p> <p>18 database.</p> <p>19 A. Yes.</p> <p>20 Q. That's the one you have the most</p> <p>21 familiarity with, correct?</p> <p>22 MR. BOISE: As opposed to what?</p> <p>23 Q. As it relates to Engelhard</p> <p>24 litigation.</p> <p>25 A. Sure.</p>	<p style="text-align: right;">Page 172</p> <p>1 M. Sullivan</p> <p>2 conversations between you and your</p> <p>3 colleagues may be privileged.</p> <p>4 Can you give kind of a high level</p> <p>5 answer?</p> <p>6 THE WITNESS: Yes.</p> <p>7 A. To track complaints that were being</p> <p>8 brought against Engelhard and various types</p> <p>9 of litigations.</p> <p>10 Q. Did it track more than just</p> <p>11 complaints? What did it track?</p> <p>12 MR. FARELL: Objection to form.</p> <p>13 A. It would track basically</p> <p>14 information that we -- the complaints</p> <p>15 themselves, plaintiffs and any information</p> <p>16 that was contained therein or any other</p> <p>17 document received thereafter about</p> <p>18 plaintiffs, to the extent it could be coded.</p> <p>19 Other pleadings, answers, amended complaints,</p> <p>20 if certain information we received in some</p> <p>21 jurisdictions from plaintiff's counsel,</p> <p>22 questionnaires and whatnot, that information</p> <p>23 would go in there, so that would include work</p> <p>24 history, including years of employment,</p> <p>25 exposures, military history, prior work</p>
<p style="text-align: right;">Page 171</p> <p>1 M. Sullivan</p> <p>2 Q. When it was put into the Access</p> <p>3 database and you turned on the computer</p> <p>4 screen, what would you see? They all think</p> <p>5 it's funny.</p> <p>6 A. There are various things you can</p> <p>7 see, but the way I created it was so that</p> <p>8 there was a screen that would give a list of</p> <p>9 the primary tables that you could go into</p> <p>10 and, actually, not tables, but forms that</p> <p>11 would provide information.</p> <p>12 Q. So when you turned on the screen,</p> <p>13 would you see the list of the tables, would</p> <p>14 you see a form, what would you see?</p> <p>15 A. You can consider that to be a form</p> <p>16 with a list of the primary parts to the</p> <p>17 relational database.</p> <p>18 Q. What was the purpose of the</p> <p>19 database?</p> <p>20 MR. FARELL: Objection to form,</p> <p>21 foundation, privileged, to the extent</p> <p>22 it's going to get into the substance of</p> <p>23 communications. If there is a general</p> <p>24 purpose or subject matter that you can</p> <p>25 speak to, that's fine, but specific</p>	<p style="text-align: right;">Page 173</p> <p>1 M. Sullivan</p> <p>2 history, that type of information. Also,</p> <p>3 about counsel representing various defendants</p> <p>4 and plaintiffs. That's all I remember right</p> <p>5 now.</p> <p>6 Q. This was done for every case</p> <p>7 involving EMTAL Talc?</p> <p>8 MR. FARELL: Objection to form and</p> <p>9 foundation.</p> <p>10 MR. BOISE: Mischaracterizes</p> <p>11 testimony.</p> <p>12 Q. I'm asking.</p> <p>13 A. To the extent I was aware of the</p> <p>14 cases, I don't know if --</p> <p>15 THE COURT REPORTER: I'm sorry, I</p> <p>16 didn't hear you.</p> <p>17 A. To the extent I was aware of the</p> <p>18 cases.</p> <p>19 Q. Was it your intent in administering</p> <p>20 the database that it capture all information</p> <p>21 that was provided concerning the cases you</p> <p>22 were involved in?</p> <p>23 MR. FARELL: Did you get the second</p> <p>24 half of the witness' answer?</p> <p>25 Can you read back his last answer</p>

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<p>1 M. Sullivan 2 as you recorded it, please? 3 MR. BOISE: Off the record for a 4 moment. 5 (Record read.) 6 THE VIDEOGRAPHER: The time is now 7 2:32 p.m. and we are going off the 8 record. 9 (Off the record.) 10 THE VIDEOGRAPHER: The time is now 11 2:41 p.m. We are back on the record. 12 MR. FARELL: Before we resume, I 13 wanted to note the conversation that was 14 had off the record following the last 15 Q&A with the witness, which is that Mr. 16 Sullivan was asked about the content and 17 the completeness of the Cahill 18 databases, and only a portion of his 19 answer was recorded on the stenographic 20 record due to some cross talk and 21 distractions. 22 I noted off the record that Mr. 23 Sullivan -- the second half of Mr. 24 Sullivan's answer was he did not know 25 whether the Cahill database contained</p>	<p>1 M. Sullivan 2 Q. It wasn't the intent. 3 So you created a database and you 4 didn't intend on it to capture the 5 information for all the EMTAL Talc cases? 6 MR. FARELL: Objection to form and 7 foundation. 8 MR. BOISE: You are arguing with 9 him. 10 A. Not at all. 11 Q. What cases did you intend to leave 12 out? 13 MR. BOISE: Objection to form. 14 MR. FARELL: Objection to form, 15 foundation. 16 MR. BOISE: Your questions leading 17 to this issue is confusing nature and 18 objectionable nature of your question. 19 Q. What cases did you intend to leave 20 out when you were creating and administering 21 the database used for the EMTAL Talc 22 litigation? 23 MR. FARELL: Objection to form and 24 foundation. 25 A. I didn't intend to leave any out</p>
Page 175	Page 177
<p>1 M. Sullivan 2 all of the EMTAL Talc related cases that 3 had filed against Engelhard. 4 Mr. Placitella initially disputed 5 that, then said the video record could 6 confirm whether the second half of his 7 answer did, in fact, state what I have 8 just said it stated, so it sounds like 9 the plaintiffs are agreeing that in this 10 instance, the video record will confirm 11 what the witness' testimony was. 12 I will say that while I was here 13 listening to the answer, I heard the 14 answer that he did not know whether the 15 database contained all cases. 16 Go ahead, Mr. Placitella. 17 MR. PLACITELLA: I appreciate you 18 saying that multiple times, but whatever 19 is on the video, is on the video. 20 Q. Was it the intent for the database 21 to capture information for all cases? 22 MR. FARELL: Objection to form and 23 foundation. 24 MR. BOISE: Objection to form. 25 A. No.</p>	<p>1 M. Sullivan 2 that I -- 3 MR. BOISE: Finish your answer. 4 A. That I became aware of. 5 Q. To the extent that you were aware 6 to put everything in there, correct? 7 MR. FARELL: Objection to form. 8 A. I don't know what you mean by, 9 everything, and you are saying all 10 information, I don't know what you mean by 11 that. 12 Q. Let me back up. 13 Was it your intent to capture 14 information for all of the people who sued 15 Engelhard or BASF in an EMTAL Talc case? 16 MR. BOISE: Objection to form. 17 A. If I got a copy of the complaint, 18 the names of the plaintiffs would be 19 captured. 20 Q. Were there systems put in place to 21 assure that the complaint was sent to you 22 when a complaint was filed to make sure it 23 was captured? 24 MR. FARELL: Objection to form, 25 foundation.</p>

<p style="text-align: right;">Page 178</p> <p>1 M. Sullivan</p> <p>2 A. I don't know about any specific</p> <p>3 procedures put in place.</p> <p>4 Q. Well, the intent wasn't to just do</p> <p>5 it on a happenstance basis, right? The</p> <p>6 intent was every time Engelhard was sued in</p> <p>7 an EMTAL talc case or BASF was sued in an</p> <p>8 EMTAL Talc case, was to capture information</p> <p>9 on that plaintiff in your database?</p> <p>10 MR. FARELL: Objection to form and</p> <p>11 foundation.</p> <p>12 A. Plaintiff's names and associations</p> <p>13 with complaint numbers, sure.</p> <p>14 Q. Who had access to this database</p> <p>15 besides you?</p> <p>16 MR. FARELL: Objection to form.</p> <p>17 A. Other legal assistants and</p> <p>18 attorneys, if they wanted it.</p> <p>19 Q. Did anybody outside the firm have</p> <p>20 access to the database?</p> <p>21 MR. BOISE: You are talking the</p> <p>22 last Access database?</p> <p>23 MR. PLACITELLA: Yes.</p> <p>24 MR. FARELL: Objection to form.</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">Page 180</p> <p>1 M. Sullivan</p> <p>2 Q. Was there a manual or training</p> <p>3 materials that explained to people how to use</p> <p>4 this database?</p> <p>5 A. No.</p> <p>6 Q. Did you log -- first of all, you</p> <p>7 did some of the coding in the database</p> <p>8 yourself, correct?</p> <p>9 A. Correct.</p> <p>10 Q. When we say coding, what do you</p> <p>11 mean by that, so the record is clear?</p> <p>12 A. Reviewing a complaint, for example,</p> <p>13 and taking the information from the complaint</p> <p>14 and entering into it into specific fields in</p> <p>15 the database.</p> <p>16 Q. Or if there was an interrogatory</p> <p>17 answer, someone would look at it and extract</p> <p>18 information and put into the database?</p> <p>19 MR. FARELL: Objection to form,</p> <p>20 foundation.</p> <p>21 A. No.</p> <p>22 Q. We will get to that. Maybe the</p> <p>23 easier way to do this...</p> <p>24 (Exhibit P-1-C, database tables,</p> <p>25 marked for identification.)</p>
<p style="text-align: right;">Page 179</p> <p>1 M. Sullivan</p> <p>2 Q. Was the database used to prepare</p> <p>3 reports for the client?</p> <p>4 MR. FARELL: Objection to form.</p> <p>5 A. No.</p> <p>6 Q. You said before there was -- prior</p> <p>7 to the Access database, there was a database</p> <p>8 called Revelation?</p> <p>9 A. Advanced Revelation, yes.</p> <p>10 Q. When did that changeover take</p> <p>11 place?</p> <p>12 A. I don't remember specifically, I</p> <p>13 don't remember.</p> <p>14 Q. Were you the official custodian of</p> <p>15 the database?</p> <p>16 MR. BOISE: Objection to form.</p> <p>17 MR. FARELL: Objection to form.</p> <p>18 A. I mean, yes. I don't know if</p> <p>19 official is the right word, but, yes, I</p> <p>20 always knew where it was.</p> <p>21 Q. Was it networked?</p> <p>22 A. It's not like a -- no, it was on</p> <p>23 the network, but it was not a</p> <p>24 networkable-type database where multiple</p> <p>25 people could...</p>	<p style="text-align: right;">Page 181</p> <p>1 M. Sullivan</p> <p>2 Q. C-1, I gave you, is what we printed</p> <p>3 out from the database that was given to us.</p> <p>4 Is this an accurate</p> <p>5 characterization of the tables that are in</p> <p>6 the database?</p> <p>7 MR. BOISE: Take a look at the</p> <p>8 whole document.</p> <p>9 MR. FARELL: What's the pending</p> <p>10 question?</p> <p>11 (Record read.)</p> <p>12 MR. FARELL: Of the tables?</p> <p>13 MR. PLACITELLA: Correct.</p> <p>14 MR. FARELL: Objection to form.</p> <p>15 A. I don't know if this is absolutely</p> <p>16 every table, but a lot of these tables do</p> <p>17 look familiar.</p> <p>18 Q. Do you still have the database?</p> <p>19 A. No.</p> <p>20 Q. What happened to it?</p> <p>21 A. It was collected by counsel.</p> <p>22 Q. Counsel, being, who?</p> <p>23 A. Williams & Connelly.</p> <p>24 Q. And when was that?</p> <p>25 A. Somewhere around the litigation. I</p>

<p style="text-align: right;">Page 182</p> <p>1 M. Sullivan</p> <p>2 don't know exactly.</p> <p>3 Q. Up until that point in time, was</p> <p>4 the database functional?</p> <p>5 MR. FARELL: Objection to form.</p> <p>6 A. To my recollection, yes.</p> <p>7 Q. Did you delete your copy of the</p> <p>8 database from the network?</p> <p>9 MR. BOISE: Objection to form.</p> <p>10 A. It was collected and removed. I</p> <p>11 had nothing to do with that part of it.</p> <p>12 Q. Was it physically removed from the</p> <p>13 Cahill premises, the entire database?</p> <p>14 A. I don't know what happened to it.</p> <p>15 Q. Do you have a list of all the</p> <p>16 tables in the database somewhere?</p> <p>17 A. No.</p> <p>18 Q. Does such a list exist?</p> <p>19 A. I don't recall ever creating one.</p> <p>20 Q. How would we know whether the</p> <p>21 database we received contained all of the</p> <p>22 tables?</p> <p>23 MR. FARELL: Objection to form and</p> <p>24 foundation.</p> <p>25 A. I don't know.</p> <p style="text-align: right;">Page 183</p>	<p style="text-align: right;">Page 184</p> <p>1 M. Sullivan</p> <p>2 (Exhibit P-1-D, database tables,</p> <p>3 marked for identification.)</p> <p>4 Q. So you have in front of you what's</p> <p>5 been marked 1-D and what I tried to do, in</p> <p>6 preparation for today's deposition, is drill</p> <p>7 down into some of the tables to see what kind</p> <p>8 of information is in there, okay?</p> <p>9 A. Okay.</p> <p>10 Q. The very first page is just what it</p> <p>11 would look like blank without looking at any</p> <p>12 tables specifically. You got me?</p> <p>13 A. Yes.</p> <p>14 Q. So then if you go to the next page,</p> <p>15 I went into the case table.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And when I look at the case table,</p> <p>19 and this is just a screen shot of -- it's not</p> <p>20 the entire table, it's just a screen shot,</p> <p>21 but I want to ask you some information.</p> <p>22 A. Okay.</p> <p>23 Q. The first column is case number.</p> <p>24 What does that represent?</p> <p>25 MR. FARELL: Objection to form.</p> <p style="text-align: right;">Page 185</p>
<p>1 M. Sullivan</p> <p>2 Q. So the exhibit -- if you go to the</p> <p>3 last page of the exhibit in front of you --</p> <p>4 MR. FARELL: Did this get marked</p> <p>5 with a number?</p> <p>6 MR. PLACITELLA: It did.</p> <p>7 MR. BOISE: C-1.</p> <p>8 MR. PLACITELLA: I think she marked</p> <p>9 it 1-C.</p> <p>10 MR. BOISE: The record will reflect</p> <p>11 that you said C-1.</p> <p>12 MR. PLACITELLA: It's fine.</p> <p>13 Q. This is a list of the tables that</p> <p>14 we construct from reviewing the database.</p> <p>15 Can you look at it and tell me</p> <p>16 whether you think there are any tables</p> <p>17 missing?</p> <p>18 MR. FARELL: Objection to form.</p> <p>19 Q. For the record, I have 87 separate</p> <p>20 tables listed.</p> <p>21 A. I have no -- this was a long time</p> <p>22 ago and I really have no knowledge of every</p> <p>23 table.</p> <p>24 MR. PLACITELLA: Can we mark this</p> <p>25 the next in line.</p>	<p>1 M. Sullivan</p> <p>2 A. The case number from the complaint.</p> <p>3 Q. So when a case comes in -- a</p> <p>4 complaint comes in, you record that under</p> <p>5 this column, case number?</p> <p>6 A. Yes.</p> <p>7 Q. Then the next column is case name.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And does that mean that's what the</p> <p>11 caption said in the complaint?</p> <p>12 A. Yes, generally.</p> <p>13 Q. And then there is a column for the</p> <p>14 court, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And then you record who the judge</p> <p>17 was, right?</p> <p>18 A. Yes.</p> <p>19 Q. You record what happened to the</p> <p>20 case, correct?</p> <p>21 MR. BOISE: Objection to form.</p> <p>22 MR. FARELL: Objection to form and</p> <p>23 foundation.</p> <p>24 Q. You write for case status, there is</p> <p>25 a list of cases, they all say dismissed, with</p>

EXHIBIT 2

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**RE: Williams v. BASF Catalysts, LLC.,
USDC NJ No: 2:11-cv-1754**

Dear Barry and Peter:

This is to invite and schedule with you a meet and confer conference call concerning the Cahill Access databases produced to us by BASF in response to discovery requests.

BASF produced two MS Access datafiles to Plaintiffs purporting to be relational databases Cahill created and maintained on Emtal products liability claims in its role as Engelhard/BASF's national coordinating counsel. Per Cahill's Michael Sullivan's testimony on March 23, 2018, one of the two databases, the one concerning the Bevan firm's cases, was a sub-database of Cahill's general or main Access database (EC_ProductsCases(FRE_408_000000003)), that was created in connection with a multiple plaintiff settlement with the Bevan law firm.

Based on Mr. Sullivan's testimony the "EC_Products Cases" database produced does not appear to be a complete copy as it existed on Cahill's network and maintained and used by the firm. Moreover, the main database file produced is not fully operational in so far as its ability to link and interrelate the various recorded information it apparently was once able to while in Mr. Sullivan's and Cahill's hands. We therefore want to follow up on Mr. Sullivan's testimony and obtain an understanding if the Cahill database BASF has in its possession, custody or control is operational as it was in Cahill's hands prior to its termination, and if so to what degree and capability. If not, we ask if any lack of operability or capability is the result of its removal or the means or manner of removal from Cahill's custody, possession or control?

Barry Boise, Esquire
March 26, 2018
Page 2

We additionally want to discuss with you: (1) the identities of persons involved in producing, gathering and removing the main database from Cahill's custody, possession and control; (2) the process and means by which it was gathered; (3) the identities of persons involved in producing the datafile ultimately produced to us by BASF; and (4) the whereabouts of any listing on each of your clients' privilege logs about any things that may have been withheld from the production of the databases. Mr. Sullivan testified that there were objects in the EC_ProductsCases Database, such as forms, when it was in Cahill's hands that were not on the screen shots of objects of the main database's contents he was given to review.

We are available tomorrow (Tuesday) or Wednesday to discuss this. Could your offices please confer and propose a time please?

Very truly yours,



ROBERT L. PRATTER
CHRISTOPHER M. PLACITELLA
MICHAEL COREN

RLP/CMP/MC

cc: All counsel of record via email only

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March 28, 2018

VIA EMAIL

Robert L. Pratter
Cohen, Placitella & Roth, P.C.
2001 Market Street, Ste. 2900
Philadelphia, PA 19103

Re: *Williams, et al. v. BASF Catalysts LLC, et al.*

Dear Bob:

I write in response to your letter dated March 22, 2018, which you sent on March 23, and your letter dated March 26, 2018. Those letters concern BASF's recent document productions and the Cahill databases.

With respect to BASF's recent document productions, those documents primarily fall into three categories: (1) documents you informally asked BASF to produce regarding the 30 sample Bevan plaintiffs and 18 sample Rothenberg plaintiffs; (2) documents that BASF may use to support its defenses; and (3) documents BASF cited or referred to in its response to plaintiffs' Appendix E.

As to the Cahill databases, BASF received them in two formats: Microsoft Access and AREV. As we understand it from Cahill, "AREV" is proprietary software from a company called Advanced Revolution, which went out of business in the 1990s. BASF has not been able to access the databases in AREV format. BASF further understands from Cahill that after Advanced Revolution went out of business, Cahill converted the databases to Microsoft Access and maintained the databases in that format. Michael Sullivan confirmed these points in his March 23, 2018 deposition.

When BASF produced the "Bevan Actions" and "EC Products Cases" databases in Microsoft Access format to plaintiffs on May 25, 2016, BASF explained that it was removing fields from the databases that contained social security numbers and addresses (just as Bevan and plaintiffs did when producing limited portions of the Bevan database). BASF instructed its vendor to retain all of the other information. As I explained in my letter last week, despite BASF's instruction, the vendor inadvertently omitted a table from the Bevan Actions database. We therefore produced the table to you when we realized a mistake had been made.

KIRKLAND & ELLIS LLP

Robert L. Pratter
March 27, 2018
Page 2

Your March 26, 2018 letter asks a number of other questions concerning, for example, the process by which Cahill's counsel collected the databases from Cahill. I will confer with Cahill's counsel regarding those other questions. I will also check the transcript of Mr. Sullivan's deposition, since I do not recall him testifying that the "'EC_Products Cases' database produced does not appear to be a complete copy as it existed on Cahill's network." Mr. Placitella did not show Mr. Sullivan the databases that BASF produced—he showed him excerpts that your firm created—so I do not see how Mr. Sullivan could have answered that question anyway. The same would be true of your question concerning "screen shots" that Mr. Placitella showed Mr. Sullivan.

If you would like to schedule a time to discuss these issues, I am available on Friday at 3:00 p.m. Alternatively, we could speak in person after the hearing that is scheduled for April 2, 2018.

Sincerely,

/s/ Peter A. Farrell

Peter A. Farrell

cc: All defense counsel

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CHRISTOPHER M. PLACITELLA
MANAGING NJ ATTORNEY

April 11, 2018

VIA EMAIL

Barry Boise, Esquire
PEPPER HAMILTON
3000 Two Logan Square
Philadelphia, PA 19103
boiseb@pepperlaw.com

Peter Farrell, Esquire
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Washington, DC 20005
peter.farrell@kirkland.com

**RE: Williams v. BASF Catalysts, LLC.,
USDC NJ No: 2:11-cv-1754**

Dear Barry and Peter:

I am following up on our March 26, 2018 letter to you concerning issues and deficiencies in the Cahill database BASF produced to Plaintiffs, EC_ProductsCases (FRE_408_000000003).

Peter's letter to us of March 28, 2018, noted that he would be conferring with Cahill's counsel regarding outstanding questions in our March 26, 2018 letter. Peter also noted that he wanted to check Mr. Sullivan's transcript on what was said about the completeness of the database produced in comparison to how it existed on Cahill's network prior to its removal and forwarding to Cahill's then counsel, Williams & Connolly.

Now that the transcript is available, we ask for a response to our outstanding issues with the Cahill database copy BASF produced. Even allowing for the redactions of Social Security numbers and addresses Peter describes in his letter (which may be an issue here if these fields provide needed links between data tables that cannot presently be linked), we believe you will both see that Mr. Sullivan testified that what was provided to plaintiffs is incomplete. We refer you to, for example, pages 190-191 of his transcript where he states that Access database "objects" (which he explained were forms) which he used to link together data tables were not appearing on the screen shots of the EC Products database he was shown at the deposition. If you kindly check your copies of the Access data file provided Plaintiffs you will see that there are no form "objects" in it. Just tables. Plaintiffs look forward to an explanation why that is so, in addition to a full response to the issues raised in our prior correspondence on this subject.

Barry Boise, Esquire
March 26, 2018
Page 2

There is a minor typographical error in Peter's letter. The software company Mr. Sullivan identified that published the database system Cahill used before Access is American Revelation. We understand from our database consultant that the Revelation data file BASF has (per Peter's letter) may still be able to be opened and operated using software that is available. Since what has been produced is not operable as, according to Mr. Sullivan, it was when last in Cahill's possession at or around time when the litigation began, Plaintiffs request that BASF forthwith produce a cloned copy of the AREV Database so our database consultant can see if it is in working order and data linked together and extracted.

Thank you for your attention to our questions and requests. We look forward to discussing these issues with you. Could your offices please confer and propose a time?

Very truly yours,



CHRISTOPHER M. PLACITELLA
MICHAEL COREN
ROBERT L. PRATTER

*Counsel for Plaintiffs
and the Proposed Class*

CMP/MC/RLP/bad

cc: Defense Counsel of Record (*via email*)

From: Robert Pratter
To: [pfarrell](#)
Cc: [hoiseb](#)
Date: Monday, April 16, 2018 5:33:52 PM
Attachments: [2018-04-11 CPR ltr BB and PAF \(Sullivan testimony\).pdf](#)

Dear Peter :

Could you kindly let me know when we can expect BASF's reply to the attached letter dated April 11, 2018 regarding deficiencies in the Cahill database. Thank you.

Robert L Pratter
C/P/R
Cohen, Placitella & Roth, P.C.
Two Commerce Square
2001 Market Street, Suite 2900 / Philadelphia, PA 19103
215.567.3500 / 215.567.6019 (fax)
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From: Robert Pratter
To: Barbara Driscoll
Subject: FW:
Date: Tuesday, April 17, 2018 3:31:41 PM

Robert L Pratter
C/P/R
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From: Farrell, Peter A. [<mailto:pfarrell@kirkland.com>]
Sent: Tuesday, April 17, 2018 2:01 PM
To: Robert Pratter <RPratter@cpirlaw.com>
Cc: boiseb <boiseb@pepperlaw.com>
Subject: RE:

We are working on a response and will get back to you.

Peter A. Farrell

DO NOT REPLY TO THIS EMAIL. ANY REPLY TO THIS EMAIL WILL BE FORWARDED TO THE APPROPRIATE PERSONNEL AT KIRKLAND & ELLIS LLP.

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peter.farrell@kirkland.com

From: Robert Pratter <RPratter@cpirlaw.com>
Sent: Monday, April 16, 2018 5:34 PM
To: Farrell, Peter A. <pfarrell@kirkland.com>
Cc: boiseb <boiseb@pepperlaw.com>
Subject:

Dear Peter :

Could you kindly let me know when we can expect BASF's reply to the attached letter dated April 11, 2018 regarding deficiencies in the Cahill database. Thank you.

Robert L Prattner
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Facsimile:
(202) 879-5200

April 19, 2018

VIA EMAIL

Robert L. Pratter
Cohen Placitella & Roth, P.C.
2001 Market Street
Philadelphia, PA 19103

Re: *Kimberlee Williams, et al. v. BASF Catalysts LLC, et al.*

Dear Bob:

I write in response to your April 11, 2018 letter, which followed my March 28, 2018 letter concerning Cahill databases and Mr. Sullivan's deposition testimony.

As an initial matter, I reviewed the two pages of Mr. Sullivan's testimony identified in your April 11, 2018 letter. At 190:13-19, Mr. Sullivan states that the Access databases are relational databases with links between certain information. We have not disputed that point and note that the same is true of the Bevan database, which has functionality that plaintiffs and Bevan are relying on but have not produced to BASF. *See, e.g.*, 4/5/18 T. Bevan Dep. at 116:3-7. At 190:20-191:9, Mr. Sullivan states that the screenshots plaintiffs created and showed to Mr. Sullivan were not complete. That is the the point I made in my March 28, 2018 letter—plaintiffs did not show Mr. Sullivan the databases that BASF produced to plaintiffs. Finally, at 191:15-23, Mr. Sullivan states that the Cahill databases did not include transaction logs.

Perhaps I am missing the point you have been trying to make in your letters, but overall it seems to me that plaintiffs have received from BASF and Cahill substantially more database information than BASF and Cahill have received from plaintiffs. If you would like to schedule a time to discuss the production of databases—including the Bevan firm's database(s), which we received only partially as incomplete Excel spreadsheets—I would be happy to do so. Indeed, in my March 28, 2018 letter I offered to speak with you on March 30, 2018 but never received a response from plaintiffs. In advance of any discussion, please identify the particular searches or queries plaintiffs have been trying to perform in the Access databases BASF produced so that we can try them ourselves. My understanding is that the Access databases BASF produced are searchable, even after Social Security Numbers and personal identifiers were removed pursuant to our agreement with plaintiffs.

KIRKLAND & ELLIS LLP

Robert L. Pratter
April 19, 2018
Page 2

If you would like to schedule a time to discuss, please let me know your availability.

Sincerely,

/s/ Peter A. Farrell

Peter A. Farrell

cc: All Defense Counsel

From: Robert Pratter
To: pfarrell; eassaf
Subject: Plaintiffs' request re : claimant information
Date: Wednesday, May 09, 2018 2:40:05 PM
Attachments: BASF indexes (privilege).pdf

Dear Peter:

Following up on our meet and confer of yesterday, May 8th, for some time Plaintiffs have been asking for documents that list, tally or record the names of Emtal talc claimants, the result of the claims and any record of dismissals, settlements or payments and reason therefor. Our request for this information has not been limited to the "Cahill data base," and in any event, we have informed you several times that the "Cahill data base" is not functioning to provide the above information we have requested.

Yesterday we reiterated our request that BASF identify and produce any documents with respect to claimants, the result of the claim, including any dismissals, settlements or payments, and reason therefor. We made it clear that our request is not limited to the words "data base" which may have different connotations to different persons, but was a broad request which included indices, lists, spreadsheets, tallies, compilations letters, memoranda or any other document in paper, electronic, computer or any other form with respect to such information. Your answer that "there is no other data base" is not responsive to our request.

We note that the BASF privilege log contains the attached 137 entries for "***index*** containing mental impressions of counsel regarding talc litigation" (emphasis added) or other words to that effect. (see the attached table). Given the use of the word "***index***", the number of entries, the reporting intervals (many daily, weekly, semi-weekly and/or monthly), and the general description of the subject matter, we believe that these documents may contain the information we have been requesting.

We therefore kindly ask that you remove these documents from the privilege log by Monday, May 14, and thereafter promptly produce the documents, absent which we shall move to ask the SDM to inspect the documents *in camera* to determine if they and the information contained therein are entitled to be withheld, or shall be turned over to the plaintiffs.

Thank you for your consideration.

Robert L Pratter
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EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

- - -

KIMBERLEE WILLIAMS, : CIVIL ACTION
et al., :
Plaintiffs, :
vs. :
BASF CATALYSTS, LLC, :
et al., :
Defendants : NO. 2:11-CV-1754

- - -

MONDAY, MAY 14, 2018

- - -

Videotaped deposition of
ARTHUR DORNBUSCH, was held at the law offices
of Littleton, Park, Joyce, Ughetta & Kelly,
141 West Front Street, Suite 120, Red Bank,
New Jersey, commencing at 9:06 a.m., on the
above date, before Deborah A. Brazukas, a
Registered Professional Reporter, Certified
Shorthand Reporter of New Jersey, License No.
XI 01938, and Notary Public.

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Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2 COHEN, PLACITELLA & ROTH, P.C.</p> <p>3 BY: CHRISTOPHER M. PLACITELLA, ESQUIRE</p> <p>4 MICHAEL COREN, ESQUIRE</p> <p>5 127 Maple Avenue</p> <p>6 Red Bank, New Jersey 07701</p> <p>7 732.747.9003</p> <p>8 cplacitella@cprlaw.com</p> <p>9 mcoren@cprlaw.com</p> <p>10 Counsel for Plaintiffs</p> <p>11 KIRKLAND & ELLIS, LLP</p> <p>12 BY: PETER FARRELL, ESQUIRE</p> <p>13 655 Fifteenth Street, N.W.</p> <p>14 Washington, D.C. 20005</p> <p>15 202.879.5959</p> <p>16 peter.farrell@kirkland.com</p> <p>17 Counsel for BASF Catalysts, LLC</p> <p>18 PEPPER HAMILTON, LLP</p> <p>19 BY: BARRY BOISE, ESQUIRE</p> <p>20 3000 Two Logan Square</p> <p>21 18th and Arch Streets</p> <p>22 Philadelphia, Pennsylvania 19103</p> <p>23 215.981.4591</p> <p>24 boiseb@pepperlaw.com</p> <p>Counsel for Cahill, Gordon; Peter Sloane; Ira Dembrow</p> <p>MARINO, TORTORELLA & BOYLE, P.C.</p> <p>BY: KEVIN MARINO, ESQUIRE</p> <p>JOHN BOYLE, ESQUIRE</p> <p>437 Southern Boulevard</p> <p>Chatham Township, New Jersey 07928</p> <p>973.824.9300</p> <p>khmarino@khmarino.com</p> <p>jboyle@khmarino.com</p> <p>Counsel for Arthur Dornbusch</p>	<p>1 INDEX</p> <p>2 - - -</p> <p>3 TESTIMONY OF: PAGE</p> <p>4 ARTHUR DORNBUSCH</p> <p>5 BY MR. PLACITELLA 11</p> <p>6 - - -</p> <p>7 EXHIBITS</p> <p>8 - - -</p> <p>9 NO. DESCRIPTION PAGE</p> <p>10 Dornbusch1 United States Securities</p> <p>11 and Exchange Commission,</p> <p>12 Washington, D.C.,</p> <p>13 Schedule 14A *</p> <p>Dornbusch2 Excerpt from BASF Privilege</p> <p>14 Log - Dornbusch *</p> <p>15 Dornbusch3 Excerpt from BASF Privilege</p> <p>16 Log - O'Shaughnessy Ashton</p> <p>17 Entries *</p> <p>18 1 Cahill Collection of Testing</p> <p>19 Document (Excluding</p> <p>20 Privileged Documents) *</p> <p>21 3 Transcript of deposition of</p> <p>22 Glenn Hemstock, March 16,</p> <p>23 1983, Re: Westfall vs.</p> <p>24 Whittaker, Clark & Daniels,</p> <p>et al. *</p>
Page 3	Page 5
<p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 HEROLD LAW, P.A.</p> <p>4 BY: ERIC TUNIS, ESQUIRE</p> <p>5 25 Independence Boulevard</p> <p>6 Warren, New Jersey 07059</p> <p>7 908.484.1153</p> <p>8 etunis@herold.com</p> <p>9 Counsel for Thomas Halket</p> <p>10 ALSO PRESENT:</p> <p>11 Sneha Desai, Esquire</p> <p>12 Robert Pratter, Esquire (via telephone)</p> <p>13 Lea Callahan</p> <p>14 Ray Moore, The Videographer</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 EXHIBITS (Continued):</p> <p>2 - - -</p> <p>3 NO. DESCRIPTION PAGE</p> <p>4 4 Transcript of deposition of</p> <p>5 Peter Gale, April 26, 1983,</p> <p>6 Re: Westfall vs. Wittacker,</p> <p>7 Clark & Daniels, et al. *</p> <p>8 5 Affidavit of William H.</p> <p>9 Ashton *</p> <p>10 6 Affidavit of Charles D.</p> <p>11 Carter *</p> <p>12 13 Excerpt of transcript of</p> <p>13 deposition of Daniel</p> <p>14 Steinmetz, July 18, 2017,</p> <p>15 Re: Sampson vs. 3M Company,</p> <p>16 et al. *</p> <p>17 14 Summary of Activities</p> <p>18 Related to Services Rendered</p> <p>19 for Decof & Grimm in the case</p> <p>20 of David H. Westfall vs.</p> <p>21 Whittaker, Clark & Daniels,</p> <p>22 et al. *</p> <p>23 15 Inter-Department Memorandum,</p> <p>24 Minerals & Chemical Division,</p> <p>Document Retrieval -</p> <p>Discontinued Operations,</p> <p>March 7, 1984 *</p> <p>41 Answers of BASF Catalysts</p> <p>LLC ton Interrogatories</p> <p>Propounded by the Plaintiffs,</p> <p>Re: Williams, et al. vs.</p> <p>BASF Catalysts, LLC, et al. *</p>

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<p style="text-align: right;">Page 10</p> <p>1 THE VIDEOGRAPHER: We are now 2 on the record. This begins DVD No. 1 in 3 the deposition of Arthur Dornbusch in the 4 matter of Kimberlee Williams, et al. 5 versus BASF Catalysts, LLC, et al., in 6 the United States District Court for the 7 District of New Jersey, Civil Action No. 8 2:11-cv-1754. 9 Today is May 14th, 2018, and 10 the time is 9:06 a.m. This deposition 11 is being taken at 141 West Front Street, 12 Red Bank, New Jersey, at the request of 13 Cohen, Placitella and Roth. 14 The videographer is Ray Moore 15 of Magna Legal Services and the court 16 reporter is Debbie Brazukas of Magna 17 Legal Services. Counsel will be noted 18 on the stenographic record. 19 Will the court reporter please 20 swear in the witness. 21 - - - 22 ARTHUR DORNBUSCH, after having 23 been duly sworn, was examined and 24 testified as follows:</p>	<p style="text-align: right;">Page 12</p> <p>1 any -- the New Jersey bar? 2 A. No. 3 Q. Okay. Am I correct that your -- 4 that you started with Engelhard in 1976? 5 A. Yes, December '96. 6 Q. And your first job was 7 assistant -- 8 A. '76. 9 Q. -- general counsel? 10 A. Yes. 11 Q. Okay. At that time, what were 12 your job responsibilities? 13 A. I was responsible for the general 14 legal support of certain of the business -- 15 sub business groups. I don't recall 16 specifically which ones. I know that one of 17 them was the systems, air -- air and systems 18 water group located in Union, New Jersey. 19 And there were other groups too, but at that 20 time, I'm not sure what they were. 21 Q. Okay. And am I -- in 1980, you 22 became the vice president and general counsel 23 of Minerals and Chemicals -- 24 A. Yes.</p>
<p style="text-align: right;">Page 11</p> <p>1 - - - 2 EXAMINATION 3 - - - 4 BY MR. PLACITELLA: 5 Q. Good morning, Mr. Dornbusch. How 6 are you? 7 A. Good morning. 8 Q. I can make you a promise before 9 we start. This will be a lot shorter than 10 the last time we were together. 11 A. That would be good. 12 Q. As you know, I'm Chris 13 Placitella, and I'm here to get your 14 testimony today. 15 You currently reside where? 16 A. Six Harbor Drive in Rumson, New 17 Jersey. 18 Q. And you went to Yale to get your 19 bachelor of arts? 20 A. I did. 21 Q. And then University of 22 Pennsylvania Law School? 23 A. Yes. 24 Q. All right. Did you ever sit for</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. -- is that fair? 2 And what were your 3 responsibilities as vice president and 4 general counsel for Mineral and Chemicals? 5 A. I was responsible for all of the 6 legal affairs of that division. That was one 7 of three divisions of Engelhard, Minerals and 8 Chemicals Corporation. 9 Q. Okay. In that capacity, did you 10 do work on the talc litigation? 11 MR. FARRELL: Objection to 12 form. 13 THE WITNESS: Yes. I'm not 14 sure at what point talc litigation 15 ensued, but yes. 16 BY MR. PLACITELLA: 17 Q. Okay. And in 1984, did you 18 become the corporate secretary for Engelhard? 19 A. Yes. 20 Q. All right. And as corporate 21 secretary, did you attend board meetings? 22 A. Yes, I did. 23 Q. Okay. In 1984, did you become 24 vice president and general counsel for the</p>

Page 106	Page 108
<p>1 Q. If you know.</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And who would that person</p> <p>4 be? Who would they get the authorization</p> <p>5 from?</p> <p>6 MR. FARRELL: Objection to form</p> <p>7 and foundation.</p> <p>8 THE WITNESS: They'd get it</p> <p>9 from me.</p> <p>10 BY MR. PLACITELLA:</p> <p>11 Q. Okay. Would they have to provide</p> <p>12 you with a reason for their recommendation</p> <p>13 for a particular settlement amount?</p> <p>14 MR. FARRELL: Objection to form</p> <p>15 and foundation.</p> <p>16 THE WITNESS: We'd have a</p> <p>17 discussion about it.</p> <p>18 BY MR. PLACITELLA:</p> <p>19 Q. Okay. And were records kept</p> <p>20 concerning the settlements and the reasons</p> <p>21 for the settlements --</p> <p>22 MR. FARRELL: Objection to form</p> <p>23 and foundation.</p> <p>24 BY MR. PLACITELLA:</p>	<p>1 A. Well, we would receive a bill</p> <p>2 monthly. And there would be -- when I say a</p> <p>3 bill, there would be actually a series of</p> <p>4 bills, a separate one for each matter. And</p> <p>5 there would be a general memorandum that</p> <p>6 would summarize the work that was done for</p> <p>7 each matter. Talc -- the talc litigation</p> <p>8 would be one of them.</p> <p>9 And I would review those. If</p> <p>10 I had any questions, I would discuss it with</p> <p>11 Cahill and then approve it for payment.</p> <p>12 Q. Okay. And when that bill was</p> <p>13 approved for payment, where did it physically</p> <p>14 go?</p> <p>15 MR. FARRELL: Objection to form</p> <p>16 and foundation.</p> <p>17 THE WITNESS: To accounts</p> <p>18 payable, I guess.</p> <p>19 BY MR. PLACITELLA:</p> <p>20 Q. Okay. And who was that person in</p> <p>21 charge, if you remember?</p> <p>22 A. I don't know.</p> <p>23 Q. Okay. And do you know what</p> <p>24 ultimately happened to the bills that were</p>
Page 107	Page 109
<p>1 Q. -- as it relates specifically to</p> <p>2 the Engelhard talc litigation?</p> <p>3 MR. FARRELL: Same objections.</p> <p>4 THE WITNESS: Not to my</p> <p>5 knowledge.</p> <p>6 BY MR. PLACITELLA:</p> <p>7 Q. Okay. Did Cahill Gordon have a</p> <p>8 defense budget for their -- for the defense</p> <p>9 of the talc litigation?</p> <p>10 MR. FARRELL: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. PLACITELLA:</p> <p>14 Q. So their budget was unlimited?</p> <p>15 MR. PLACITELLA: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. PLACITELLA:</p> <p>19 Q. Okay. In terms of -- how did the</p> <p>20 billing occur, just for the talc litigation?</p> <p>21 MR. FARRELL: Objection to form</p> <p>22 and foundation.</p> <p>23 BY MR. PLACITELLA:</p> <p>24 Q. If you know.</p>	<p>1 submitted?</p> <p>2 MR. FARRELL: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: No, I don't.</p> <p>5 BY MR. PLACITELLA:</p> <p>6 Q. Did the counts -- the accounts</p> <p>7 payable have a separate ledger for the</p> <p>8 defense of the Emtal talc litigation?</p> <p>9 MR. FARRELL: Objection to</p> <p>10 form; foundation.</p> <p>11 THE WITNESS: I don't know.</p> <p>12 BY MR. PLACITELLA:</p> <p>13 Q. Did accounts payable ever provide</p> <p>14 you with summaries of what the legal defense</p> <p>15 costs were for the defense of the Emtal talc</p> <p>16 litigation?</p> <p>17 MR. FARRELL: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: I received a</p> <p>20 number of things from our finance people</p> <p>21 that consisted of the -- I call them IBM</p> <p>22 printouts, but it was -- in those days,</p> <p>23 you got things on paper with perforations</p> <p>24 on both margins. And it would have an</p>

<p style="text-align: right;">Page 110</p> <p>1 analysis of legal department 2 expenditures. I believe it was probably 3 broken down, litigation costs were 4 probably broken down by matter. 5 I didn't pay much attention to 6 it because I had reviewed it in more 7 detail on a monthly basis. 8 BY MR. PLACITELLA: 9 Q. Were they permanent business 10 records that -- reports that you're referring 11 to? 12 MR. FARRELL: Objection to form 13 and foundation. 14 THE WITNESS: Well, they would 15 have been covered by the document 16 retention policy. I -- I'm not sure how 17 permanent you would be. Probably after a 18 year or so, they wouldn't be required to 19 be retained. 20 BY MR. PLACITELLA: 21 Q. Now, in terms of the accounts 22 payable records, how did they figure into 23 the -- the accounts -- accounts payable 24 ledgers, how did they figure into the</p>	<p style="text-align: right;">Page 112</p> <p>1 had occasion to find out. 2 BY MR. PLACITELLA: 3 Q. And how -- who would you ask or 4 what would you -- if you had to make that 5 request, what would you do? 6 MR. FARRELL: Same objections. 7 THE WITNESS: Well, in the 8 first instance, I would ask Mike 9 Sperduto, who was our chief financial 10 officer. And he would put me in touch 11 with somebody in his finance organization 12 who could give me the answer. 13 BY MR. PLACITELLA: 14 Q. Okay. Now, as corporate 15 secretary and general counsel, were you 16 required to keep the board of directors 17 apprized of what was going on in the Emtal 18 talc litigation? 19 MR. FARRELL: Objection to 20 form. 21 THE WITNESS: I don't know that 22 I was required to. I did on an 23 occasional basis. 24 BY MR. PLACITELLA:</p>
<p style="text-align: right;">Page 111</p> <p>1 document retention policy? 2 MR. FARRELL: Objection to 3 form. 4 THE WITNESS: I don't -- I 5 don't recall. 6 BY MR. PLACITELLA: 7 Q. Okay. If -- when you were there 8 in, say, 2005, and you wanted to know how 9 much Cahill Gordon billed you from two -- 10 2003 to 2005, could you get that information? 11 MR. FARRELL: Objection to form 12 and foundation. 13 THE WITNESS: I'm sure I could. 14 BY MR. PLACITELLA: 15 Q. Okay. And if you were there in 16 2005 and you wanted to know how much Cahill 17 Gordon billed you from 2000 to 2005, could 18 you secure that information? 19 MR. FARRELL: Objection to form 20 foundation. 21 THE WITNESS: I would think I 22 could. I -- but I don't know for a fact. 23 MR. PLACITELLA: Okay. 24 THE WITNESS: I never -- never</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. Okay. And what sort of 2 information would you be reporting to the 3 board of directors about the Engelhard talc 4 litigation? 5 MR. FARRELL: Objection to 6 form; foundation. And I'd also caution 7 you, Mr. Dornbusch, not to reveal the 8 substance of any communications that 9 preserve privileges and work product that 10 would apply to such communications with 11 the board. 12 THE WITNESS: I would give them 13 an overview of where we stood. 14 BY MR. PLACITELLA: 15 Q. And when you say "overview," what 16 do you mean by that? 17 A. Well, I'd tell them how many 18 cases, how many since the last period had 19 been settled; if they were settled for money, 20 how much. That sort of thing. 21 Q. And if they were dismissed with 22 no money, would you tell them that? 23 A. Yes. 24 Q. Okay. Would you tell them the</p>

EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO: 11-cv-1754 (JLL) (JAD)

- - - - - :
KIMBERLEE WILLIAMS, et al, :
 :
 : Plaintiffs, : DEPOSITION UPON
 : ORAL EXAMINATION
vs. :
 : of
BASF CATALYSTS, LLC, et al, :
 : MICHAEL JAMES
Defendants. : HASSETT
 :
- - - - - :

West Orange, New Jersey
Tuesday, April 24, 2018

DEPOSITION of MICHAEL JAMES HASSETT
in the above-entitled action by and before PATRICIA J.
RUSSONIELLO, a Certified Court Reporter and Notary
Public of the State of New Jersey, at the office of
ARLEO & DONOHUE, LLC, 622 Eagle Rock Avenue,
commencing at 10:11 a.m.

Magna Legal Services
866-624-6221
www.MagnaLS.com

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1	APPEARANCES:	1	INDEX
2	COHEN PLACITELLA ROTH, PC	2	WITNESS EXAMINATION BY
3	By JARED M. PLACITELLA, ESQ.	3	MICHAEL JAMES HASSETT
	CHRISTOPHER M. PLACITELLA, ESQ.	4	By Mr. Jared Placitella 8
4	Two Commerce Square	5	
5	2001 Market Street, Suite 2900	6	
6	Philadelphia, Pennsylvania 19103	7	
7	127 Maple Avenue	8	EXHIBITS
8	Red Bank, New Jersey 07701	9	NUMBER DESCRIPTION PAGE
9	Tel: (732) 747-9003 Tel: (215) 567-9003	10	Hassett-1 Six-page Notice Of Video 9
10	jmplacitella@cpirlaw.com	11	Deposition Of Michael Hassett,
11	Attorneys for Plaintiffs	12	Esq., and attached Certificate
12	KIRKLAND & ELLIS, LLP	13	of Service
13	By DANIEL A. BRESS, ESQ.	14	Hassett-1A One-page Interoffice Memorandum 186
14	RONALD K. ANGUAS, JR., ESQ.	15	12/23/91 and attached Engelhard
15	655 Fifteenth Street, N.W.	16	Record Retention Manual
16	Washington, D.C. 20005	17	(BASF_Sampson 39958-39998)
17	Tel: (202) 879-5152	18	Exhibit 1 Multi-page Cahill Collection 86
18	daniel.bress@kirkland.com	19	Of Testing Document (Excluding
19	ronald.anguas@kirkland.com	20	Privileged Documents) (P-15)
20	Attorneys for BASF Catalysts, LLC	21	Exhibit 3 Transcript (Glenn Hemstock) 91
21	PEPPER HAMILTON, LLP	22	3/16/83 (BASF-Sampson 14462-
22	By ANTHONY VALE, ESQ.	23	14601)
23	3000 Two Logan Square	24	Exhibit 4 Transcript (Peter Gale) 94
24	18th and Arch Streets	25	4/26/83 (JNJ-Ros 9712-9792)
25	Philadelphia, Pennsylvania 19103-2799		Hassett 5 One-page letter, 8/20/02 58
	Tel: (215) 981-4000 Fax: (215) 981-4750		and attached settlement list
	valea@pepperlaw.com		(BASF-Williams 390446-390460)
	Attorneys for Defendants, Cahill Gordon,		Hassett 7 One-page letter, 5/9/06 and 175
	Peter Sloane and Ira Dembrow		attached Release (BASF FC 12168-
	ARLEO & DONOHUE, LLC		12171)
	By TIMOTHY M. DONOHUE, ESQ.		Hassett 10 Two-page Merten to Cuzzone 168
	622 Eagle Rock Avenue		letter, 8/2/04 and attachments
	West Orange, New Jersey 07052		
	Tel: (973) 736-8660 Fax: (973) 736-1712		
	Attorneys for Deponent		
	APPEARANCES: (Continued on next page)		

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1	APPEARANCES: (Continued)	1	EXHIBITS (continued)
2	MARINO, TORTORELLA & BOYLE, P.C.	2	NUMBER DESCRIPTION PAGE
3	By PHILLIP S. PAVLICK, ESQ. (via telephone)	3	Exhibit 11 Multi-page document, re, 69
4	437 Southern Boulevard	4	Excerpted Entries from
5	Chatham, New Jersey 07928	5	Privilege Log of BASF
6	Tel: (973) 824-9300 Fax: (973) 824-8425	6	Catalysts LLC
7	ppavlick@khmarino.com	7	Exhibit 14 Multi-page Summary Of 167
8	Attorneys for Defendant, Arthur Dornbusch	8	Activities Related To Services
9	HEROLD LAW, P.A.	9	Rendered For Decof & Grimm
10	By ERIC TUNIS, ESQ. (via telephone)	10	(BASF-Lopez 21666-21681)
11	25 Independence Boulevard	11	Exhibit 15 One-page Interoffice 105
12	Warren, New Jersey 07059-6747	12	Memorandum, 3/7/84 (BASF 00157)
13	Tel: (908) 647-1022 Fax: (908) 647-7721	13	Exhibit 57 Responses By Engelard 114
14	etunis@herold.com	14	Corporation To Plaintiffs'
15	Attorneys for Defendant, Thomas Halket	15	First Standard Set Of Liability
16		16	Interrogatories (BASF FC 14202-
17		17	14256)
18		18	Exhibit 60 Multi-page Defendant Eastern 155
19		19	Magnesia Talc Company's Answers
20		20	To Plaintiff's Interrogatories
21		21	(BASF FC 12190-12204)
22		22	Exhibit 124 Two-page letter, 5/3/02 147
23		23	(BASF-Williams 40099-40100)
24		24	Exhibit 203 Defendant Arthur A. Dornbusch 72
25		25	II's Disclosures Under Rule
			26(a)(1)
			Exhibit 205 Seven-page Plaintiff Theresa 161
			Martin's More Responsive Answers
			To Interrogatories Propounded By
			Eastern Magnesia Company
			(BASF_Williams 334310-334316)
			(Reporter retains all exhibits except Exhibit 7.)

<p style="text-align: right;">Page 6</p> <p>1 REQUEST FOR PRODUCTION OF DOCUMENTS: 2 PAGE LINE 3 66 17 (copies of documents) 4 5 6 7 DIRECTIONS NOT TO ANSWER QUESTIONS: 8 PAGE LINE 9 13 1 10 13 4 11 47 21 12 50 20 13 51 2 14 77 21 15 80 1 16 80 8 17 127 1 18 146 13 19 152 19 20 184 8 21 22 23 24 25</p>	<p style="text-align: right;">Page 8</p> <p>1 Ellis, for BASF. 2 MR. ANGUAS: Ronald Anguas, Kirkland and 3 Ellis, for BASF. 4 MR. VALE: Anthony Vale for Cahill 5 Gordon, Peter Sloane and Ira Dembrow. 6 MR. PAVLICK: Phillip Pavlick of Marino, 7 Tortorella & Boyle for Arthur Dornbusch. 8 MR. TUNIS: Eric Tunis on behalf of 9 Thomas Halket. 10 THE VIDEOGRAPHER: Will the court 11 reporter please swear in the witness. 12 MICHAEL JAMES HASSETT, having been 13 duly sworn by the Notary, testifies as follows: 14 EXAMINATION BY MR. JARED PLACITELLA: 15 Q. Good morning, Mr. Hassett. 16 A. Good morning. 17 Q. My name is Jared Placitella. It's nice 18 to meet you. 19 A. Good to meet you. 20 Q. You understand that we're here today for 21 the purposes of taking your deposition? 22 A. Yes. 23 Q. Have you ever had your deposition taken 24 before? 25 A. Yes.</p>
<p style="text-align: right;">Page 7</p> <p>1 THE VIDEOGRAPHER: We are now on the 2 record. This begins videotape number 1 in the 3 deposition of Michael Hassett in the matter of 4 Kimberlee Williams, et al, versus BASF Catalysts, LLC, 5 et al, in the United States District Court for the 6 District of New Jersey. 7 Today is Tuesday April 24th, 2018 and 8 the time is 10:11 a.m. 9 This deposition is being taken at 622 10 Eagle Rock Avenue, West Orange, New Jersey, at the 11 request of Cohen, Placitella and Roth. 12 The Videographer is Thomas Karwacki of 13 Magna Legal Services and the court reporter is 14 Patricia Russoniello of Magna Legal Services. 15 Will counsel and all parties present 16 state their appearances and whom they represent, 17 please. 18 MR. JARED PLACITELLA: Sure. I'll 19 start. 20 Jared Placitella for the plaintiffs. 21 MR. CHRISTOPHER PLACITELLA: Chris 22 Placitella. 23 MR. DONOHUE: Tim Donohue, Arleo and 24 Donohue, for the witness, Michael Hassett. 25 MR. BRESS: Dan Bress, Kirkland and</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. When was that? 2 A. Probably very late '90s. 3 Q. And what was the circumstances under 4 which you had your deposition taken? 5 A. It was a case that went to litigation 6 about an insurance claim by Engelhard against AIG. 7 Q. And do you recall what the insurance 8 claim was over? 9 A. Yes. It was a loss of -- a loss 10 relating to base metal inventory held at an Engelhard 11 subsidiary in Japan. 12 Q. And that was the only time you ever had 13 your deposition taken before today? 14 A. That's the only one I can remember. 15 Q. Sure. 16 I'm going to show you what I've marked 17 as Hassett Exhibit 1 for identification; well, Exhibit 18 Hassett-1. Sorry. 19 Have you ever seen this Notice before 20 today? 21 A. Yes. 22 Q. And when was the first time that you -- 23 well, when did you see this Notice of your deposition? 24 A. Recently. Within the past five or six 25 days.</p>

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<p>1 (At this time the witness and counsel 2 leave the deposition room at 11:21 a.m.) 3 MR. DONOHUE: Everybody's there on the 4 phone, right? 5 THE VIDEOGRAPHER: The time is -- 6 MR. TUNIS: Yes. 7 THE VIDEOGRAPHER: -- 11:28 a.m. We're 8 on the record. 9 BY MR. JARED PLACITELLA: 10 Q. So, Mr. Hassett, before we took a short 11 break I believe my last question was what were the 12 nature of the interactions that you had with insurance 13 carriers in the context of the Martin case? 14 MR. BRESS: And I'll instruct you not 15 to -- go ahead. I think you can give the answer. 16 A. We were inquiring into coverage issues. 17 Q. And what were those coverage issues? 18 MR. BRESS: Well, I don't -- I don't 19 know if you know the answer to that but -- but I'm 20 not -- I'm going to ask you and instruct you not to 21 reveal specific communications. 22 THE WITNESS: Well, first I think to the 23 extent that I discussed that, it was with the local 24 counsel and not -- that part of it at least was not 25 directly with the carrier so that -- does that change</p>	<p>1 at this point. 2 Q. Instead of a typical number how about -- 3 let's take two cases. 4 You said the Chernick case. 5 Do you recall how much it cost Engelhard 6 to defend the Chernick case? 7 A. I don't remember. 8 Q. And do you recall how much it cost 9 Engelhard to defend the Martin case? 10 A. I do not remember. 11 Q. Did Engelhard keep records of how much 12 it cost it to defend Emtal talc cases? 13 A. The company in general maintained 14 records of legal expenses and all expenses. It's, you 15 know, a big company with good financial statements. 16 I don't recall seeing reports that were 17 specific to -- specific breakdowns for talc cases 18 or -- and -- and certainly didn't ask for them. 19 Q. If those records existed who would -- 20 what department in Engelhard would be responsible for 21 maintaining them? 22 MR. BRESS: Objection. Foundation. 23 THE WITNESS: Answer anyway? 24 MR. DONOHUE: You may answer. 25 A. Well, accounting would have records on</p>
Page 51	Page 53
<p>1 your view on the... 2 MR. BRESS: Oh, yes. I do instruct you 3 not to disclose communications with local counsel on 4 the basis of privilege. 5 Q. But for the instruction not to answer 6 would you be able to answer that question? 7 A. Only in an extremely general way. 8 Q. But yes? 9 MR. BRESS: Objection to form. 10 A. I could give a very general answer, yes. 11 Q. In the context of the Emtal talc 12 litigation did you have any interactions with 13 insurance brokers? 14 A. No. 15 Q. Did Engelhard set budgets on attorneys 16 fees and expenses in individual matters? 17 MR. BRESS: Objection. Form. 18 A. In general, no. I don't remember an 19 exception I was involved in. 20 Q. Do you know approximately how much it 21 cost Engelhard to defend an Emtal talc case? 22 MR. BRESS: Objection. Form. 23 A. And I -- I don't know there was a 24 typical case you could answer based on. I don't 25 really remember much of anything about the fee numbers</p>	<p>1 expenses generally including legal fees and I don't 2 know if there would be any supplemental reports 3 that -- you know, that Arthur saw but I didn't. 4 Q. Have you ever attended any seminars 5 pertaining to the defense of asbestos or talc cases? 6 A. No. 7 Q. What role did Engelhard's Legal 8 Department have in deciding whether to settle a talc 9 case? 10 MR. BRESS: Objection to form. 11 A. In general a settlement would be 12 approved by the in-house Legal Department. 13 The tire worker cases I just didn't get 14 involved -- I'm not sure what the approval -- tire 15 workers were different. Not sure what the approval 16 process was exactly there. 17 Q. Who in the Engelhard Legal Department 18 approved settlements? Would that be Arthur Dornbusch? 19 A. In general, yes. 20 Q. I'd like to go back to the tire workers 21 cases for a minute. 22 Do you recall what tire worker cases, 23 you know, were within your purview? 24 A. Well, I would -- in theory, all. In 25 practice, none. I -- I -- I just...</p>

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

KIMBERLEE WILLIAMS, et al.,

Plaintiffs,

vs.

BASF CATALYSTS, LLC, et al.,

Defendants.

HONORABLE JOSE L. LINARES

CIVIL ACTION NO. 11-1754 (JLL) (JAD)

CERTIFICATE OF SERVICE

I hereby certify a true and accurate copy of the foregoing attached Reply Brief is being served on all counsel for the parties of record listed below on this 24th day of May 2018 date via electronic delivery only.

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Dated: May 24, 2018